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## 9 UNITED STATES BANKRUPTCY COURT

10 EASTERN DISTRICT OF CALIFORNIA

11 SACRAMENTO DIVISION

12  
13  
14 IN RE: ) Case No: 17-23011-C-13C  
15 ) DCN: DPC-1  
16 )  
17 MATTHEW VICKERS, ) TRUSTEE'S OBJECTION TO  
18 ARIANA VICKERS, ) CONFIRMATION  
19 )  
20 ) DATE: JULY 11, 2017  
21 ) TIME: 2:00 P.M.  
22 ) JUDGE: KLEIN  
23 Debtor(s) ) COURTROOM: 33

24 DAVID P. CUSICK, TRUSTEE, objects to confirmation of the Debtor(s) plan and does  
25 not recommend its confirmation.

26 The Trustee objects to confirmation as:

27 1. **FAILED TO PROVIDE DOCUMENTS** The Trustee is unable to fully assess the  
28 feasibility of the plan;11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). On their Voluntary Petition,  
29 debtors identify their DBA: Rocklin Coin Shop. On Statement of Financial Affairs #27, Debtors

1 report they own and operate a business-Rocklin Coin Shop. Searching the internet, the Trustee  
2 determined the Rocklin Coin Shop is located at 4870 Granite Dr, Rocklin, CA with the website  
3 [www.rocklincoinshop.net](http://www.rocklincoinshop.net).

4 In connection with the business, the trustee requested copies of certain documents  
5 including, but not limited to, a completed business questionnaire, 2 years of tax returns, profit  
6 and loss statements, bank account statements, proof of license and insurance or written statement  
7 of no such documentation exists. These documents were requested by the Trustee on May 10,  
8 2017. Debtor has failed to provide the requested documents to the Trustee. On May 25, 2017,  
9 the Trustee received bank statements for Tri Counties Bank for November, 2016 to April, 2017  
10 and 2015 Federal and State Tax Returns.  
11

12 The Trustee has not received and request the Debtors provide:

- 14 • Business Questionnaire
- 15 • Monthly Profit & Loss statements for November, 2016 to April, 2017.
- 16 • Tri Counties Bank #2212- Cancelled checks November, 2016 to April, 2017
- 17 • 2014 Tax Return and 2016 Tax Returns (when filed)
- 18 • Proof of business license
- 19 • Proof of liability, workers comp and vehicle insurance
- 20 • Seller's Permit
- 21 • State Board of Equalization Return 2015 and 2016
- 22 • Asset List
- 23 • Inventory List

24 This is required **7 days before** the date set for the first meeting, 11 U.S.C. §  
25 521(e)(2)(A)(i)

26 **2. FAILURE TO FILE TAX RETURNS** On May 12, 2017, the IRS filed Claim #4,  
27 which indicated that Debtors have not filed returns during the 4-year period preceding the filing  
28 of the Petition. Specifically, 2016, 2015 and 2014. See 11 U.S.C. §§ 1308 & 1325(a)(9).

29 **3. PLAN EXCEEDS 60 MONTHS** According to the Trustee's calculations the Plan  
30 will complete in 240 months as opposed to 60 months as proposed. This exceeds the maximum

1 amount of time allowed under 11 U.S.C. 1322(d). The Internal Revenue Service (IRS) filed  
2 Claim #4, which includes \$180,265.24 in priority tax, and the plan proposes to pay the IRS  
3 \$10,430.00. The claim filed by The Franchise Tax Board filed Claim #6, which includes  
4 \$4,984.95 in priority tax but Debtors plan propose to pay \$463.00. The two tax claims appear to  
5 be the cause for the plans extended term.  
6

7 **4. BEST EFFORTS/INCOME** Debtors' Plan may not be the Debtors' best efforts  
8 under 11 U.S.C. §1325(b). Debtors may have erroneously reported their income on Statement of  
9 Current Monthly Income, Schedule I and the Statement of Financial Affairs. Debtors should be  
10 above median and appear to have significant unreported income and expenses.  
11

12 a. HOUSEHOLD SIZE: Debtors' Statement of Current Monthly Income (DN 1, Pg. 43)  
13 Line 16b reports their household size as 7, allowing them a median income of \$109,259.00 On  
14 Schedule J #2, debtors report their dependents (DN 1, Pg. 31) listing 4 children, the youngest is  
15 newborn and identified as "new". According to Schedule J, their household is only 6 (including  
16 the new baby). The median income for a household of 6 is \$100,859.00. If their household is 6  
17 the debtors are above median income.  
18

19 b. NOT ALL INCOME ON FORM 122C-1: Debtors' Statement of Current Monthly  
20 Income, Form 122C-1(DN 1, Pgs. 41-46) reports Debtors' income at \$4,500.00 each on #2-gross  
21 wages, salary, tips; their income averages \$9,000.00 per month and \$108,000.00 annually. The  
22 household of 7 (line 16c) median income in California is \$109,259.  
23

24 Debtors' bank statements dating November, 2016 to April, 2017 show Debtors' deposits  
25 average \$68,833.95 per month.  
26  
27  
28

1                   c. REPORTED INCOME It appears the debtors may have reported their net business  
2 income versus their annual gross receipts on both Schedule I and the Statement of Financial  
3 Affairs.

4                   On Schedule I (DN 1, Pgs. 29-30), Debtors' each report earning \$4,500.00 in income  
5 from wages on line 4, with no deductions. Debtors' net monthly income on line 12 is \$9,000.00.  
6 At their First Meeting of Creditors held on June 1, 2017, debtors admitted they listed only their  
7 net income from operating their business.

8                   Statement of Financial Affairs #4 (DN 1, Pgs. 34-35) reports earnings in 2017: \$18,000  
9 each or \$36,000 combined, in 2016: \$54,000 each (\$108,000 combined) and in 2015: \$54,000  
10 each (\$108,000 combined).

11                   d. TAX RETURN According to bank records provided to the Trustee, the Debtors  
12 deposited approximately \$285,064.52 between January, 2017 and April, 2017.

13                   Debtors' 2015 1040 Federal Tax Return reveals Debtors' file Schedule C and operate  
14 their business as a Sole Proprietor with gross receipts of \$1,061,546.00 in 2015. The Trustee has  
15 not received Debtors' 2014 or 2016 Returns.

16                   When examined at the First Meeting of Creditors held on June 1, 2017, debtors explained  
17 that the income reported is their net income not the gross receipts.

18                   **5. BEST EFFORTS/SCHEDULE J EXPENSES** The Debtors' Plan may not be the  
19 Debtors' best efforts under 11 U.S.C. §1325(b). The Trustee has concerns with a couple of  
20 debtors' expenses on Schedule J.

21                   a. TAX SAVINGS: On line #16, debtors deduct \$1,000 per month for estimated taxes.  
22 The Trustee assumes these are for personal income taxes and is not opposed to the deduction.  
23 The Trustee suggests the Court order the Debtors set the tax savings aside in a new/separate bank  
24  
25

1 account for the sole use and purpose of tax savings and payments, and that Debtors provide a  
2 copy of the bank statement to the Trustee on a quarterly basis.

3 b. MEDICAL INSURANCE: On line #15b, debtors deduct \$1,215.00 per month for  
4 health insurance. The Trustee does not oppose the need for medical insurance, but requests  
5 proof of the expense and how it is paid.

6 **6. BUSINESS ATTACHMENT/NOT ALL EXPENSES REPORTED:** The Debtors  
7 cannot make the payments under the plan or comply with the plan, 11 U.S.C. § 1325(a)(6).  
8 Debtors' testimony at the 341 suggests that debtors are not employees but are owner/operators of  
9 their business Rocklin Coin Shop.

10 Debtors' have additional expenses not reported. Debtors fail to report their business  
11 operation expenses on Schedule J and have not filed the attached the business attachment as  
12 required by Schedule I #8a. Debtors bank deposits average around \$68,833.95 and income on  
13 Schedule I totals \$9,000.00 (DN 1, Pg. 30, Ln #12). On Schedule J, debtors report monthly  
14 expenses of \$6,270.00. There appears to be a discrepancy in the Debtors' Schedules and  
15 Statements that needs clarification.

16 7. **LIQUIDATION** The Debtors' Plan may fail the Chapter 7 liquidation analysis  
17 under 11 U.S.C. §1325(a)(4). Debtors' nonexempt assets total \$10,825.00 and the plan proposes  
18 to pay 14% or \$5,915.14 to the unsecured creditors, and \$11,225.00 in priority claims. Debtors'  
19 may have additional assets not disclosed.

20 a. BANK BALANCE: On Schedule B #17, debtors list checking account at Tri-Counties  
21 Bank with \$7,000 in the account on the date of filing. The Trustee has been unable to verify the  
22 balance reported and request that Debtors provide the Trustee with their May, 2017 bank  
23

1 statement, including the balance on May 2, 2017. On Schedule C, Debtors' exempt \$7,000 and  
2 have used all of their available wildcard exemption.

3 b. ROCKLIN COIN SHOP The Debtors' own Rocklin Coin Shop listed on Statement of  
4 Financial Affairs #24, the location of the shop is not reported on Schedule I or on Statement of  
5 Financial Affairs #24. The business does not appear to be listed as an asset on Schedule B #19  
6 (DN 1, Pg. 13). It does not appear that debtors have disclosed their business fixtures, cases,  
7 cash registers, safes, computers and security cameras and equipment and any other business  
8 equipment and furnishings in the shop.

9  
10 Through a Google internet search, the Trustee was able to find a business address of 4870  
11 Granite Dr, Rocklin, CA and a business website of [www.rocklincoinshop.net](http://www.rocklincoinshop.net). Services on their  
12 website include buying silver plated items, selling of firearms, firearm classes, buying, selling  
13 and trading rare and specialty coins and appraisal of coins.  
14

15 Based on the above, the Trustee is uncertain Debtors' have listed all of their assets in  
16 their schedules.

17  
18 c. INVENTORY: On Schedule B #41-Inventory, Debtors lists "coins and metal  
19 inventory" \$15,000. Debtors' have not filed with the Court or provided the Trustee with an  
20 itemized list of their inventory and the prospective values. The Trustee cannot adequately  
21 determine if the plan is proposed in good faith without verification of assets.  
22

23 d. GUNS: The Trustee is concerned not all weapons are reported. Debtors business  
24 includes the sale of firearms and firearm training. On Schedule B #10, debtors list guns \$2,000.  
25 The Trustee has no way of knowing how many guns debtors own personally and how many they  
26 have in merchandise for sale. The Trustee has not yet received any inventory lists from the  
27 debtors relating to their business assets.  
28

1                   e. COLLECTIBLES: The Trustee is concerned not all collectibles are reported. On  
2 Schedule B #8, debtors list no assets. Debtors deal in collecting of rare and unusual coins and  
3 other valuable collectibles, yet list no personal collections. Under "About Us" on the business  
4 website [www.rocklincoinshop.com](http://www.rocklincoinshop.com) co-debtor Ariana Vickers is described as collecting since an  
5 early age, and specializes in numismatic coins and currency. Any collections should be listed on  
6 Schedule B #8.

7                   **7. FAILURE TO FILE MOTION TO VALUE** The Debtors cannot make the  
8 payments under the plan or comply with the plan, 11 U.S.C. § 1325(a)(6). The Debtors propose  
9 to value the secured claim of Travis Credit Union, but have not filed a motion to value collateral.  
10 Debtor's plan does not have sufficient monies to pay the claim in full and therefore should also  
11 be denied confirmation.

12                   **8. IDENTITY/SOCIAL SECURITY VERIFICATION** Debtor Ariana Vickers failed  
13 to provide proof of her Social Security Number to the Trustee to establish the Debtor's identity  
14 pursuant to the request of the United States Trustee and Chapter 13 Trustee, 11 U.S.C.  
15 §521(h)(2).

16                   WHEREFORE the movant prays that the Court enter an order denying confirmation of  
17 the Debtor(s) plan.

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19                   Dated: JUNE 8, 2017

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22                     
23                   Talvinder S. Bambhra, Attorney for Trustee

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